

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs November 14, 2006

STATE OF TENNESSEE v. JEREMIAH LEON WRIGHT

Direct Appeal from the Circuit Court for Blount County
No. C-15680 D. Kelly Thomas, Jr., Judge

No. E2006-00726-CCA-R3-CD - Filed March 30, 2007

The defendant, Jeremiah Leon Wright, after pleading guilty to rape, a Class B felony, was sentenced to the maximum of twelve years as a Range I, violent offender. The defendant appeals, contending that the trial court erred in failing to consider the defendant's mental health when mitigating the length of his sentence. We conclude that the new sentencing statute places greater discretion with the trial court in fashioning a sentence and that the trial court did not abuse its discretion. We affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which DAVID H. WELLES and NORMA MCGEE OGLE, JJ., joined.

Raymond Mack Garner, District Public Defender, for the appellant, Jeremiah Leon Wright.

Robert E. Cooper, Jr., Attorney General and Reporter; Cameron L. Hyder, Assistant Attorney General; Michael L. Flynn, District Attorney General; and Tammy M. Harrington, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

This case involves the sentencing of the defendant for raping an 80-year-old victim. After taking the guilty plea, reviewing the presentence report, and conducting a sentencing hearing, the trial court found that, at the time of this offense, the defendant was on probation for an attempted aggravated sexual battery of a five-year-old child. The trial court also found that two enhancing factors applied: the defendant's history of criminal convictions, T.C.A. § 40-35-114(1); and the defendant victimized a person who was particularly vulnerable because of her age and physical abilities, T.C.A. § 40-35-114(4). The defendant does not contest the enhancement factors but argues that, while not excusing his conduct, his mental condition should have resulted in the trial court shortening the length of his sentence to less than twelve years.

Analysis

This offense occurred on August 23, 2005, and this defendant was sentenced under the new law effective for all offenses occurring after June 6, 2005. T.C.A. § 40-35-210. This new statute gives greater discretion to the trial court in imposing a specific sentence than the previous statute.

A review of the record reveals the evidence of the defendant's mental condition consisted of the defendant's testimony, the testimony of the defendant's grandfather, and the evaluations contained in the presentence report. The trial court did, in fact, consider the defendant's mental condition when it stated, "His mental condition leads to frustration and difficulties understanding things, but it is certainly no justification for or excuse for violent criminal behavior."

Although a body of law has not yet been developed interpreting the new sentencing statute, it is clear that the trial court considered the defendant's mental condition. Under prior law that we find persuasive rather than controlling, this court has held that the weight to be given enhancing or mitigating factors is left to the discretion of the trial court. State v. Madden, 99 S.W.3d 127, 138 (Tenn. Crim. App. 2002). Also, we noted that, under the prior law, enhancing factors could be sufficient to firmly embed the sentence in the ceiling such that a mitigating factor, even when present, would not dislodge the sentence from the ceiling. See State v. Samuel D. Braden, 1998 Tenn. Crim. App. LEXIS 213, at *24 (Tenn. Crim. App. Feb. 18, 1998). Such is the underlying case. The defendant's prior criminal history consists of convictions of attempted aggravated sexual battery, driving with a revoked license, and writing worthless checks. This victim, who was eighty years old, was particularly vulnerable, and the trial court found her to be very frail. The defendant committed the offense while on probation for a conviction of attempted aggravated sexual battery. The enhancing factors applied by the trial court properly placed the defendant's sentence in the ceiling of the sentencing range, and the mitigating factors were not enough to overcome or offset the existing enhancement factors.

We conclude that the maximum sentence was supported by the record and that the trial court did not abuse its discretion in sentencing this defendant.

Conclusion

Based on the foregoing and the record as a whole, we affirm the judgment of the trial court.

JOHN EVERETT WILLIAMS, JUDGE